

SUNSHINE REFORM TASK FORCE MEETING MINUTES

**Thursday, April 19, 2007
6:00pm – 9:00pm**

City Hall, W118-119

Present: Bob Brownstein, South Bay Labor Council; Ken Podgorsek, United Neighborhoods of SCC; Ed Rast, Strong Neighborhoods Initiative PAC; Nanci Williams, San José/Silicon Valley Chamber of Commerce; Dan Pulcrano, Silicon Valley Leadership Group; Judy Nadler, Markkula Center for Applied Ethics; Virginia Holtz, Willow Glen Neighborhood Assoc.; Joan Rivas-Cosby, Five Wounds/Brookwood Terrace Neighborhood Advisory Committee; Dave Zenker, Falls Creek Neighborhood Association; Margie Matthews, Former Councilmember; Mary Ann Ruiz, Parks and Recreation Commission; Brenda Otey, At Large-Representative.

Absent: Bobbie Fischler, League of Women Voters; Karl Hoffower, Citizens Commission on Human Rights; Edward Davis, Orrick Law Firm (Legal Counsel); Susan Goldberg, San José Mercury News.

Staff: Sheila Tucker, Senior Executive Analyst; Lee Price, City Clerk; Dottie Disher, City Clerk's Office; Lisa Herrick, Senior Deputy City Attorney; Dan McFadden, Interim Deputy City Manager; Eva Terrazas, Office of the City Manager/Redevelopment Agency; Tom Manheim, Office of the City Manager.

I. Approval of April 5, 2007 Meeting Minutes

Upon a motion made by Margie Matthews, seconded by Virginia Holtz, the April 5, 2007, minutes were approved as amended noting Joan-Rivas Cosby did not attend the April 5, 2007 meeting (Dave Zenker, Brenda Otey, Joan Rivas-Cosby abstained).

II. Comments from Chair

Chairman Rast commended the city staff, as the City Council did earlier in the week, for their excellent job in supporting the Sunshine Reform Task Force's work. Chairman Rast also commended the San José Planning and Code Enforcement Division for their work in the area of making public records available. Code enforcement cases, permits and several City policies are now available online.

III. Review of Meeting Material

Staff provided an overview of the documents for the meeting.

IV. Discussion on Public Meetings Provisions

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A. Reform of the Public Process Regarding Major Public Subsidies

Task Force member Bob Brownstein reviewed his April 11, 2007, memorandum regarding modifications to the 12/19/06 Public Subsidy Proposal and provided preliminary comments. The City's Chief Economic Development Officer, Paul Krutko, provided an overview of: (1) staff's recommended methodology to implement a pilot program for a cost benefit analysis for City and Agency projects; (2) activities and events seeking public funding approved by Council on April 4, 2007; and (3) elements of Task Force member Brownstein's proposal that staff may recommend integrating in the City's pilot cost benefit analysis program.

Harry Mavrogenes, Executive Director of the Redevelopment Agency provided an overview of: (1) Redevelopment Agency Law, (2) types of agreements for major projects and investments, (3) various reports distributed to the Agency Board on the recently approved BEA project, (4) operations and management study for the Fox Theatre project (now the California Theatre), and (5) list of items approved by Agency Board requiring early distribution (June 20, 2006 - March 27, 2007).

Public Comment: The following individuals spoke in support of Bob Brownstein's proposal and offered other suggestions:

Jack Christin, Resident of Willow Glen

Clark Williams, Resident and Former Task Force Member

Sarah Muller, Working Partnership

Tim Frank, Sierra Club

Ann Sandoval, Resident of East San Jose

Tamon Norimoto, Japantown Community Congress of San José

Claudia Shope

Chris Block, Charities Housing

Andrew Reed, Resident of San Jose

Upon a motion by Bob Brownstein, seconded by Dan Pulcrano, the Task Force agreed to recommend that every public subsidy proposal of over \$1 million should provide 30 days of public review, unless staff requests a 21 day waiver for exceptional circumstances (where there is a risk that a high priority project may be jeopardized (Nanci Williams opposed.)

Upon a motion by Bob Brownstein, seconded by Ken Podgorsek, the Task Force agreed to recommend that every subsidized project over \$1 million should provide the options available if the projected returns do not occur followed by an after-action report describing the extent to which the proposal is actually generating the outcomes predicted (Joan Rivas-Cosby, Dan Pulcrano, and Nanci Williams opposed.)

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Upon a motion by Bob Brownstein, seconded by Ken Podgorsek, the Task Force agreed to recommend that every subsidized project over \$1 million should include an analysis of the net tax impact, i.e., a calculation of tax revenues generated by the subsidy minus tax revenues lost (Dan Pulcrano, and Nanci Williams opposed.)

Upon a motion by Bob Brownstein, seconded by Ken Podgorsek, the Task Force agreed to recommend that every subsidized project over \$1 million should provide an analysis of the number of jobs generated as a result of the project by salary range, 0-\$20,000, \$20,000-\$40,000, \$40,000-\$60,000-\$80,000, and whether or not the employer provides health insurance (Nanci Williams opposed.)

B. Definition/Requirements for Non-governmental Bodies (Public Meeting Subcommittee Recommendations, approved by SRTF, 2/15/07)

Ken Podgorsek introduced the discussion topic noting the definition of the word "city service" is a very broad definition and that the Task Force may have captured more entities than it had intended.

Staff noted that some Departments had been meeting to review the definition and requirements for public meetings. Based on the proposed definition, Departments identified: 1) what they believed a non-governmental body is and what it isn't (based on information provided by the staff for the Task Force), the entities that would be covered, as well as those entities that receive over 200K.

Albert Balagso, the City's Parks, Recreation, and Neighborhood Services Director, provided an overview of the input from Departments noting the following:

1. A non-governmental body may be a municipal service provider (entity that exercises authority over a core service) and that a non-governmental body may not be an entity with a professional service contract or grant recipient from the City (providing social service programs).
2. The amount of funding that triggers a NGB should be aligned with the CMO/Finance's Authority to enter into agreements, and
3. The issues that trigger reporting to a Policy Body should be more specific and limited to the services that are actually provided to the City.

Upon a motion by Ken Podgorsek, seconded by Joan Rivas-Cosby, the Task Force referred the definition and requirements of a non-governmental body back to the Public Meeting Subcommittee to meet with staff and community representatives for additional discussion and consideration.

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Public Comment

Dan Keegan (Executive Director of the San Jose Museum of Art) – Mr. Keegan shared his concerns on the impact to non-profits with the current definition and requirements of a non-governmental body and specifically recommended that the Task Force consider using the term “review” rather than “oversight.”

Bob Nazarenius (Chief Financial Officer for the American Musical Theatre) – Mr. Nazarenius clarified the American Musical Theatre (AMT) came to the City for financial assistance due to some unexpected situations and that the AMT has fully paid off the loan to the City. In addition, Mr. Nazarenius noted that arts organizations are willing to be very open about what's going on, and to the point where it's a review, not necessarily involvement in oversight.

James Chadwick (San Jose Mercury News) – Mr. Chadwick noted the staff presentation had not been distributed in advance of the meeting and recommended all meeting materials for discussion items be available the Friday before meetings, as the Task Force had previously agreed. In addition, Mr. Chadwick spoke in support of the idea that City services are things that the city would otherwise be doing that are being delegated to private entities and a non-governmental body is an entity discharging what would otherwise be public obligations.

C. Clarifications to Exemptions to 10 Day Staff Report Rule

1. #2. Contract Bid Awards/Procurements Where Initial Memo Distributed to Council On-Time

Item deferred to April 26, 2007 meeting.

2. #8. Items Heard by Council Committee Requiring Council Action, “One Week Turn Around”

Item deferred to April 26, 2007 meeting.

D. Council Memorandums that Propose Action that Significantly Differs from Staff Recommendations

Item deferred to April 26, 2007 meeting.

V. Phase I Recommendations Status & Schedule

- A. Process for Staff Input
- B. Public Review Process

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Item deferred to April 26, 2007 meeting.

VI. Upcoming Agenda and Work Plan

The Task Force will hold a special meeting on Thursday, April 26, from 6:00 – 9:00 pm, at City Hall in W-118-119. The Task Force will resume discussions about Reform of the public process regarding major public subsidies and the remaining public meeting provisions (except non-governmental bodies). The Task Force will resume discussions on the definition and requirements of a non-governmental bodies at its May 3, 2007 Task Force meeting.

Action Item: Staff will begin drafting the Task Force's report on its Phase 1 recommendations including requirements for public meetings, closed session, and public information with the goal of finalizing the Task Force's recommendations in May 2007.

VII. Public Comment

No additional public comment.

The meeting adjourned at 9:10 p.m.